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In re Application of
Becker
Application No. 10/007,492
Filed: November 8, 2001
Attorney Docket No. SMQ-140/P6592

OFFICE OF PETITIONS
ON PETITION

This is a decision on the petition filed May 29, 2002, requesting, in effect, that the "Notice Of Omitted Item(s)" mailed January 7, 2002, be withdrawn to the extent that it states that Figure 2 is missing. The petition also requests the application be accorded a filing date of November 8, 2001.

The petition is **granted** to the extend indicated below.

The application was filed on November 8, 2001.

On January 7, 2002, the Office of Initial Patent Examination mailed a "Notice of Missing Item(s)" stating that the application had been accorded a filing date of November 8, 2001, and advising applicant that Figure 2 described in the specification appeared to have been omitted.

The Notice gave applicant three options:

- (1) file a petition contending that Figure 2 was in fact filed on November 8, 2001,
- (2) file a copy of Figure 2 and request the date of the submission of the Figure be the filing date, or
- (3) file no response to the Notice and accept the application as filed on November 8, 2001.

On February 6, 2002, in response to the Notice, applicant submitted a copy of Figure 2 but did not submit a petition or petition fee. The Office changed the filing date to February 6, 2002.

Petitioner contends that, despite the filing of a copy of Figure 2 in response to the Notice, petitioner intended to choose option (3) listed above.

Since a petition explicitly requiring a later filing date, and petition fee, were not filed with the Figure, the filing date should not have been changed. The filing date will be changed back to November 8, 2001.

Figure 2 will not be entered. Petitioner contends Figure 2 was in fact present on November 8, 2001, in so far as the Figure was superimposed over Figures 3 and 4.

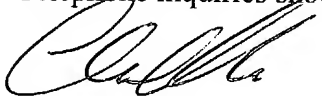
Applicant does not contend that Figure 2 was filed and later lost or misplaced by the Office. Instead, the contention involves mistakes on the drawings. Such mistakes should be corrected by amendment and not by petition. A formal amendment to correct Figures 2, 3 and 4 should be filed.

Since the present petition was not necessitated by any error on the part of the Office, the \$130 petition fee will not be refunded.

The attorney docket number has been corrected. The Revocation and Power of Attorney has been entered.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 8, 2001, using only the application papers filed on that date.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

A handwritten signature in dark ink, appearing to read 'C. Brantley', is positioned above the printed name.

Charles Steven Brantley
Petitions Attorney
Office of Petitions